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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,750	07/31/2001	Harry J. Buncke	447RE	7589
24239	7590	12/23/2005		
MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			EXAMINER JACKSON, GARY	
			ART UNIT	PAPER NUMBER
			3731	
DATE MAILED: 12/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/919,750	BUNCKE, HARRY J.	
	Examiner	Art Unit	
	Gary Jackson	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26, 60-65 and 74-105 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 21-26 and 94-105 is/are allowed.
- 6) ☒ Claim(s) 9-17, 19, 20, 62-65 and 74-94 is/are rejected.
- 7) ☒ Claim(s) 18, 60 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)   |
| Paper No(s)/Mail Date <u>5/11/2005</u> .   | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |



Continuation of Attachment(s) 6). Other: IDS:3/30/05; 10/25/04; 4/9/03, 9/16/02; 8/31/05 .

### **DETAILED ACTION**

This action is responsive to applicant's Response to Election/Restriction and amendment filed June 30 , 2005. The examiner has considered applicant's request and after reconsideration has withdrawn the restriction requirement set forth in Official Action mailed February 9, 2009. Claims 27, 58-59, 66-73 and 106-145 have been cancelled. Claims 28-57 are withdrawn from consideration. Claims 1-26, 60-65 and 74-105 are considered on the merits.

The indicated allowability of claims 9-18, 19-20, 76-84, 86-94 is withdrawn after further consideration of the McKenzie publication cited below and already of record.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9, 74-75 and 85 are rejected under 35 U.S.C. 102(b) as being anticipated by McKenzie publication "An experiment Multiple Barbed Suture For The Flexor Tendons Of The Palm And Fingers" (McKenzie). The Mckenzie publication teaches a method for holding together two tissue portions wherein the portions are sewn with barb sutures as recited in the claim. The page labeled 445, figure 10 clearly discloses the method steps as recited. Page 442, figure 3 shows where the suture has been severed.

Concerning claim 85, there is nothing in the body of the claim that limits the recitation to a facelift procedure. A path is always selected before suturing begins and a needle is passed through the tissue. McKenzie teaches all of the other method steps.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-17, 19-20, 63-65, 76-84, 86-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie. Concerning claim 10 it is well known in the to provide suture-needle combinations with having pullout characteristics. The USPTO classification system class/subclass (606/227) has many patents with this feature. It would have been obvious at the time of applicant's invention from McKenzie's with a pull out suture-needle combination. Concerning claims directed to the barbs layout, such recitation does not effect the method steps in this instance and such modification would have been obvious to one having ordinary skill in the art.

***Allowable Subject Matter***

Claims 18, 60 and 61 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-8, 21-26, 74-75 and 95-105 are allowable over the art of record.

***Response to Arguments***

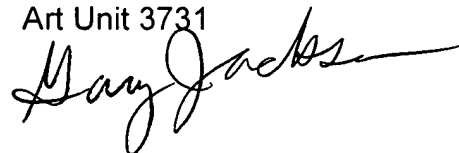
Applicant's arguments with respect to claims 9-18, 19-20, 76-84, 86-94 has been considered but is moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (571) 272-4697. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Jackson  
Primary Examiner  
Art Unit 3731



gj  
December 14, 2005